

MAYOR
Hal J. Rose

DEPUTY MAYOR
John Dittmore

COUNCIL MEMBERS
Daniel Batcheldor
Pat Bentley
Adam Gaffney
Barbara A. Smith
Andrea Young



West Melbourne

F L O R I D A

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CITY COUNCIL REGULAR MEETING

MINUTES

July 7, 2020

1. CALL TO ORDER

Mayor Rose called the meeting to order at 6:35 p.m.

2. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENT MEDITATION

Mayor Rose led the Pledge of Allegiance followed by a moment of silence.

3. ROLL CALL

Attending in person: Mayor Hal Rose, Deputy Mayor John Dittmore, and Council Members Pat Bentley and Andrea Young.

Attending remotely: Council Members Barbara Smith and Daniel Batcheldor.

Absent: Adam Gaffney

Council Member Young moved to excuse Council Member Gaffney. Deputy Mayor Dittmore seconded the motion, which passed with a 6-0 vote.

Also present in person: City Manager Scott Morgan, City Attorney Morris Richardson, Information Technology Director Tom Bradford, City Clerk Cynthia Hanscom, Jacobs Project Manager Brian Mascher and Vice President Andy Rouse of Jacobs, and members of the public.

Attending remotely: Planning Director Christy Fischer, Finance Director Margi Starkey, Public Works Director Mark Piccirillo, Human Resources Director Kimberly Gale, Police Chief Rick Wiley, and Deputy Chief Rich Cordeau.

Deputy Mayor Dittmore moved to add an item to the action agenda to discuss providing staff direction for researching on requiring masks for the community. Council Member Smith seconded the motion, which passed 6-0.

4. PUBLIC HEARINGS

Code Amendment Update and Allow Temporary Housing After a Declared Disaster. Planning Director Fischer presented the first reading of Ordinance No. 2020-03. The ordinance would clarify that flat roofs were not prohibited for residential developments in the integrated business and gateway interchange districts. Also the ordinance would allow for temporary homes in residential zones following a Florida Governor declared national disaster. For example, if a home is damaged, a temporary home, such as a trailer or RV, would be permitted temporarily on the property until the home could be repaired. The temporary or interim housing would be allowed for 18 months and would apply only for West Melbourne residents and council can provide extensions.

City Attorney Richardson read Ordinance No. 2020-03 in title only:

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, FLORIDA, PROVIDING FOR THE ESTABLISHMENT OF REGULATIONS, PROCEDURES, AND CRITERIA FOR THE REVIEW, DENIAL, APPROVAL, OR APPROVAL WITH CONDITIONS OF TEMPORARY HOUSING WITHIN THE CITY OF WEST MELBOURNE; PROVIDING FOR DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Mayor Rose asked about the screening of air conditioning equipment and whether this was being done for all districts. Planning Director Fischer stated that this is required in most districts and is made a condition of approval for many other approvals.

Council Member Bentley moved to approve the second reading of Ordinance No. 2020-03, updating some of the architecture language in the IB and GTWY-I mixed use districts and to allow temporary housing after a Governor declared disaster. Deputy Mayor Dittmore seconded the motion, which passed 6-0 in a roll call vote.

Code Changes Chapter 86, Subdivisions, Lot Split Clarifications and Updates. Planning Director Fischer presented the first reading of Ordinance No. 2020-04 to modify the subdivision regulations to clean up language for lot splits and clarify how preliminary and final plats are reviewed and approved. She indicated there were no changes since the first reading.

City Attorney Richardson read Ordinance No. 2020-04 in title only:

ORDINANCE NO. 2020-04

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 86, SUBDIVISIONS, ARTICLE I, IN GENERAL, SECTION 86-10. PRELIMINARY PLAT SUBMITTAL REQUIREMENTS; SECTION 86-14. LOT SPLITS; SECTION 86-15. PRELIMINARY PLAT REVIEW BY PLANNING AND ZONING BOARD; SECTION 86-16. PRELIMINARY PLAT REVIEW BY CITY COUNCIL; SECTION 86-22. FINAL PLAT REVIEW BY PLANNING AND ZONING BOARD; SECTION 86-23. FINAL PLAT REVIEW BY CITY COUNCIL; AND SECTION 86-24. RECORDING OF FINAL PLAT TO REMOVE ANTIQUATED SUBMITTAL REQUIREMENTS AND TO UPDATE THE LOT SPLIT AND SUBDIVISION REVIEW PROCESSES IN THE CODE OF ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Deputy Mayor Dittmore moved to approve the second reading of Ordinance No. 2020-04, code changes to Chapter 86, Subdivisions to update both the lot split process and the subdivision code. Council Member Bentley seconded the motion, which passed 6-0 in a roll call vote.

5. PUBLIC FORUM

Kristin Springer, 1740 Whitman Drive, stated she was a resident and teacher in West Melbourne. She expressed concern with how a private gym, specifically LA Fitness, was operating. She stated that the gym was a hotspot for COVID-19. From talking with code enforcement personnel, it was difficult to enforce the 50 percent rule, particularly if they can show that the business is using 50 percent of the equipment or only 50 percent of the building. She noted that the Governor's intent was to limit the number of people. Although she knew that she could simply not use the facilities at LA Fitness, this would not eliminate the danger to the community.

Mayor Rose asked if this was site specific. City Attorney Richardson stated that the Governor's ordered uses building occupancy. In some places there are fire codes for individual rooms, but in the case of a gym it is building occupancy. Mayor Rose asked if the six feet of social distancing would need to be maintained. City Attorney Richardson stated the Governor's order does not mention social distancing but does address cleaning and disinfecting. He stated that there was no mask requirement but the business could make it a condition for entrance.

Adrian Rankin, 4813 Academic Lane, West Melbourne, stated he lived in Cypress Landing and was concerned with the level of noise ordinance created near his residence. He stated that there were car clubs meeting nightly with loud exhausts and music. He stated that when the police arrive, the group does disperse. He believed the area needed to be policed, especially at 11:00 p.m. when LA fitness closes for the day.

Deputy Mayor Dittmore asked if the police have authority to enforce on private property. City Attorney Richardson stated it would depend on what the individuals are doing. If they were conducting criminal activity or doing something in violation of one of the city's codes (such as noise), the police could enter the property. If the property were posted by the property owner that there could be no vehicles after a certain hour, then the individuals could be arrested for trespass. It was suggested that LA Fitness be contacted. Chief Wiley stated that he would make sure that the officers on that rotation were aware of the concerns and would put in a patrol order request.

Council Member Bentley asked about the noise ordinance. City Attorney Richardson explained there were restrictions based on time and type of noise, such as amplified music versus construction noise.

6. CONSENT AGENDA

Council Member Young moved to approve the following consent agenda. Mayor Rose seconded the motion, which passed with a 6-0 roll call vote.

- Approve the City Council meeting minutes for Tuesday, June 16, 2020.
- Approve a Recreation Impact Fee Credit Agreement with Integra Station LLC providing for payment of a recreation fee in lieu of dedication of park or recreation areas.
- Approve Resolution No. 2020-11 accepting the dedication of roadway, water distribution, and sanitary sewer system improvements associated with the Carlton Apartments project, subject to listed conditions.
- Approve Resolution No. 2020-12 accepting the dedication of roadway, drainage, water distribution, and sanitary sewer system improvements associated with the Oasis Apartments project, subject to listed conditions.

7. ACTION AGENDA

Test Production Well for Water Treatment Project. Deputy City Manager Mills explained he was asking to award a piggyback bid for the test production well to All Webbs Enterprises, Inc. This was the first part of the process to get to a water plant for the city. The City was working toward obtaining a consumptive use permit from St. John's River Water Management District. The second task would require drilling a well to provide data to determine the quality and capacity of the water that can be extracted.

This phase of the process would also determine what area would work best for the wells. Deputy Manager Mills stated the test well would become one of the three to five wells needed for the plant. The location of test well was proposed to be on the north side of Henry Avenue east of the Public Works compound.

Deputy City Manager Mills explained that a similar project had been conducted in the City of Stuart which would require the driller to retrieve data and continually coordinate with the engineer. He stated that they were asking to piggyback on the City of Stuart award. The contractor had submitted a letter and agreed to the unit prices.

Deputy Mayor Dittmore moved to award the piggyback bid for the Test Production Well for the Water Treatment Plant project to All Webbs Enterprises, Inc., in the amount of \$553,050 and authorize the City Manager to execute a contract. Council Member Young seconded the motion.

Mayor Rose asked the outcome if poor results were found. Deputy City Manager Mills stated that he had not talked about but would address concerns at that time. City Manager Morgan stated that they had an idea of the general geology but needed specific data. For example they knew that the north-south alignment to the proposed plant location would be best. He noted that they would eventually need three to five production wells.

Mayor Rose asked how long this step would take. Deputy City Manager Mills stated both the consumptive use permit and the test well would take about the same amount of time but he did not expect it to take very long.

Council discussed the water from the City of Melbourne, which was a mix of surface water and ground water.

Council Member Bentley asked if each production well would cost the same. City Manager Morgan replied that he would expect each production well to cost about the same depending on the depth.

The motion to award the piggyback bid for the Test Production Well to All Webbs Enterprises, Inc., passed 6-0 in a roll call vote.

Wastewater Operations, Maintenance and Management Contract Extension. City Manager Morgan presented an amendment for the operation and management of the sewer treatment plant by Operations Management International, Inc. (Jacobs). He reminded Council that a request for proposal had been issued 10 years ago and the firm had been selected back in February 2011. The original contract was for 5 years and then an extension continued the contract for an additional five years. The proposal before Council would extend that contract for an additional five years to commence April 2021 through April 2026.

Council Member Bentley asked about the escalation factor. City Manager Morgan explained that the annual increase each year is a blend of the traditional consumer price and an indicator specific to the industry. This combination leads to a typical annual increase of around 3 percent.

Council Member Bentley asked if additional personnel would be needed. City Manager Morgan stated that they had not asked for additional personnel. He noted that there would be a major process improvement that would create an entire new step in the treatment process; City staff would rely on the advice of Jacobs personnel to determine if additional personnel were needed.

Council Member Bentley moved to approve a five year contract extension for wastewater operations, maintenance and management with Operations Management International, Inc., and authorize the City Manager to execute the extension on behalf of the City. Deputy Mayor Dittmore seconded the motion, which passed 6-0 in a roll call vote.

School Resource Officers for West Melbourne Charter Schools for 2020-2021 School Year. Chief Wiley asked that Council consider providing school resource officers for the Imagine School and Pineapple Cove Classical Academy. He explained that West Melbourne officers had been located in both schools for the past two years. Council was being asked to establish the each school's cost-share as either at \$57,000, which is the same as what the Brevard School Board will be paying as their cost-share for school resource officers for the 2020-2021 school year, or \$62,000, which is the same as what the charter schools will be paying for their cost-share for school resource officers provided by the Brevard County Sheriff's Department for the 2020-2021 school year, or \$84,050, which is the average annual salary and benefit cost of the two West Melbourne Police Officers.

Council Member Bentley stated he had talked with Sheriff Wayne Ivey on this topic and noted that the \$62,000 was the starting point for the contract with escalators in place for future years.

Deputy Mayor Dittmore stated that there is concern that some schools may go with at security specialist in order to provide some savings. He cautioned that some schools may not agree to a multi-year contract. Council Member Bentley stated that the school could opt out of the program in future years.

Mayor Rose stated that he would prefer to have officers on the street; the charter schools could have security specialist. If parents want their children to go to a school with a resource officers, they have the option to send their children to public schools.

Council Member Bentley stated the annual cost of \$84,050 included the salary and benefits but did not include other costs such as training, uniforms, and the vehicle costs. He believed the full cost should be factored into the amount paid by the schools. City Manager Morgan stated that the actual costs would in the low \$100,000. However, this

cost would need to be spread over 10 months, which would bring it close to the \$84,050.

Deputy Mayor Dittmore cautioned that they had only just discussed a hiring freeze. He believed that it was important to get back as much of the funds for the position as possible.

Council Member Smith stated that it was already July and the schools did not have the opportunity to prepare for the entire costs. This would provide a year for the schools to work out what they would want to do with Sheriff's office.

Council Member Smith moved to establish each school's cost-share as \$62,000, which is the same as what the charter schools will be paying for their cost-share for school resource officers provided by the Brevard County Sheriff's Department for the 2020-2021 school year. Council Member Batcheldor seconded the motion, which failed in a 3-3 vote with Council Member Bentley, Deputy Mayor Dittmore and Mayor Rose opposed.

Council Member Bentley moved to establish each school's cost-share as \$84,050, which is the average annual salary and benefit cost of the two West Melbourne Police Officers who would be assigned as School Resource Officers to Imagine School and Pineapple Cove Classical Academy during the 2020-2021 school year. Deputy Mayor Dittmore seconded the motion.

Council Member Young agreed that \$62,000 should be the least that should be considered. If the contract was for multi-years then it could be increased closer to the actual cost. However, she would be concerned without insuring that the charter schools have some kind of service.

Council Member Batcheldor asked if the schools had commented on the \$84,050. He was concerned that they may be cornered into something that they were not situated to handle. Chief Wiley indicated that he had talked with both schools and they appeared to be interested in contracting with West Melbourne and were aware that the cost would go up, but he did not present them with the annual amount of \$84,090.

Council Member Bentley asked that his motion be amended to establish the cost for the School Resource Officer would be \$70,000, with the notification to the schools that the cost in future years would be reflective of the actual annual costs. He believed this would provide charter schools the ability to budget for the officer going forward. Deputy Mayor Dittmore agreed to the amendment to the motion, stating that both the charter schools were paying fees to companies with significant profits.

Council Member Smith stated that the \$70,000 annual cost was better than \$84,050. She would not want to penalize the children because there was no other option at this late date.

Council Member Young stated that the City would be subsidizing the costs. She would like to see the actual break down in costs in the future. Council Member Bentley agreed and stated those numbers should be provided to the schools.

Council then voted on the motion to provide School Resources Officers for the charter schools at a cost of \$70,000 for the 2020-2021 school year, which passed 6-0 in a roll call vote.

Wearing of Masks. Deputy Mayor Dittmore stated he had been watching news reports and researched the CDC guidelines and believed it was the City's duty to protect the public. Therefore, he asked staff to provide guidance and come back to council on options to require masks for the business community.

Council Member Smith spoke on the status of the hospitals and the concerns with the number of ICU beds that would be specialized to handle COVID-19 cases. She believed that people were taking things too lightly and there should be a mandate.

Council Member Batcheldor stated that it was important to protect the public but he understood that it was difficult to enforce a mandate. He suggested incentivizing the public to wear a mask. He applauded the City Manager for being dynamic in his response by protecting those in City Hall.

Council discussed how a mask mandate could be enforced. Chief Wiley stated that Satellite Beach had passed a mandate that would make it a civil citation. Arrest could not be made but there could be fines. He stated that the majority of the people are wearing masks if it is requested by the business.

Mayor Rose stated he believed businesses should be given tools. He asked the rules in City buildings. City Manager Morgan stated that employees are required to mask when the 6 foot distance could not be maintained. However, it was not required that masks be worn by customers. He stated that hand sanitizer was provided to customers.

Council Member Smith stated that it is Council's job to protect the employees. She would prefer that the City's facilities require masks. Deputy Mayor Dittmore agreed. City Manager Morgan stated that he could administratively mandate that masks be worn in the building by employees and customers.

Council then provided guidance on coming back before Council on requiring masks in all business within the City. Mayor Rose stated that he would like to see something that would result in repercussions.

Council Member Young asked if the City could refuse the public if they are not wearing masks. City Attorney Richardson stated that they could refuse entrance but could also suggest other measures, such as offering to help the citizens outside, by phone or email. He stated that employees recognize that assisting the residents was their primary service.

Deputy Mayor Dittmore stated that the City may need to do more and stay ahead of the curve. Mayor Rose stated that he would like to see some statistics on the number of business that are requiring masks.

Council Member Bentley suggested the City Manager call the major businesses in West Melbourne letting them know what the City was doing and ask them about requiring masks. He stated that it was important for the businesses to understand that City Council was taking this very seriously and encourage them to require masks.

Council discussed the availability of masks and the ability to obtain funding from the from the CARES Act to supply masks.

8. CITY COUNCIL REPORTS

Council Members Young and Deputy Mayor Dittmore had no report.

Council Member Smith reiterated that she would encourage a mandatory requirement for masks, particularly with the increase in cases in the 32904 area code.

Council Member Batcheldor thanked other members for a good meeting and hoped that the City could encourage the uses of masks through other means than a civil penalty.

Council Member Bentley agreed that it had been a productive meeting.

Mayor Rose stated that there had been budget cuts at the state level and he expected that would trickle down to the local level and encouraged that the rolled back rate be considered. City Manager Morgan noted that the rolled back rate would result in a reduction of \$160,000, compared to the current rate. He would share a set of line item reductions that the Council could consider.

Mayor Rose noted, since the schools did not have a real graduation ceremony, he sent letters to all those seniors in West Melbourne. He stated he hoped to send something out to the teachers as well. He reported that he had the privilege of speaking to 25 graduating seniors about career plans and felt that it was a positive experience.

9. ADJOURNMENT

There being no further business, the meeting adjourned at 9:15 p.m.